

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, thiamine hydrochloride, has been in part, omitted or abstracted from the article; and 403(a)—the label statement "Each capsule contains * * * Thiamine HCl 2mg." was false and misleading as applied to a product containing less than the declared amount of this ingredient.

DISPOSITION: 9-19-63. Default—destruction.

29295. Lecitabs (lecithin tablets). (F.D.C. No. 48127. S. No. 65-297 T.)

QUANTITY: 120 90-tablet btls., 144 180-tablet btls., and 118 540-tablet btls., at Glendale, Calif.

SHIPPED: 7-25-61 and 8-1-62, from Chicago, Ill., by National Lecithin, Inc.

LABEL IN PART: "National Lecitabs Lecithin Tablets * * * Ingredients: Soya Lecithin, in a base of non-fat, dry milk solids and soy protein. Natural flavoring added. Sole Distributors: National Lecithin, Inc. Chicago 26, Ill. * * * a dietary supplement of natural lipotropic factors. * * * as an aid in lowering blood cholesterol."

LIBELED: 10-9-62, S. Dist. Calif.

CHARGE: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use by reason of its choline and inositol content and its label failed to bear as required by regulation a statement of the quantity of choline and inositol in a specified quantity of the food.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7402.

DISPOSITION: 1-29-63. Default—destruction.

29296. Various safflower oil and gluten products. (F.D.C. No. 47440. S. Nos. 5-525 T, 5-527/30 T.)

QUANTITY: 18 100-capsule btls. of safflower oil capsules, 46 12-oz. pkgs. of gluten self-rising flour, 12 3-oz. pkgs. of gluten noodles, 10 3-oz. pkgs. of gluten spaghetti, and 10 3-oz. pkgs. of gluten macaroni, at Richmond, Va., in possession of Thalhimers Department Store.

SHIPPED: Between 2-20-62 and 3-30-62, from New York, N.Y., by Balanced Foods, Inc.

LABEL IN PART: (Btl.) "100 Noble 1150 Mgs. Safflower Oil Capsules with 10 Mgs. B-6 Noble Nutritional Foods, Inc. Dist. New York, N.Y. Each Capsule Contains," (pkg.) "Be Diet-Wise with Dia-Mel No Salt Added dietetic self-rising (gluten) flour specially prepared for low sodium and starch restricted diets 3 Sealed Packets * * * Ingredients * * * Packed by Dietetic Food Co., Inc., Brooklyn, N.Y.," (pkg.) "Dia-Mel dietetic Gluten Noodles * * * Specially prepared for starch restricted diets Packed by Dietetic Food Co., Inc., Brooklyn 19, N.Y.," (pkg.) "Dia-Mel dietetic Gluten Spaghetti Specially prepared for starch restricted diets No Salt Added * * * Packed by Dietetic Food Co., Inc., Brooklyn, N.Y.," and (pkg.) "Dia-Mel dietetic Macaroni elbow style made from Gluten Flour Specially prepared for starch restricted diets * * * Packed by Dietetic Food Co., Inc., Brooklyn, N.Y."

LIBELED: 4-9-62, E. Dist. Va.; libel amended 4-12-62.

CHARGE: 403(a)—when shipped, the labels of the articles contained false and misleading representations that the safflower oil capsules were of significant value for special dietary supplementation by reason of the presence therein of

safflower oil; and that the gluten flour, noodles, spaghetti, and macaroni were of special significance for starch and sugar restricted diets.

The libel alleged also that the articles together with certain other products were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7401.

DISPOSITION: On 5-9-62, the articles were claimed by Balanced Foods, Inc., New York, N.Y., and an answer was filed by Balanced Foods, Inc., denying that the articles were misbranded. Thereafter, the case was removed for trial to the Eastern District of New York. On 5-25-62, Dietetic Food Co., Inc., answered the libel and denied that the products packed by them, namely, the gluten flour, noodles, spaghetti and macaroni, were misbranded. On 6-25-62, Balanced Foods Co., Inc., withdrew its claim to the goods. On or about 6-28-62, Dietetic Food Co., Inc., filed a claim to the gluten flour, noodles, spaghetti, and macaroni. On 8-3-62, a default decree of condemnation and destruction was filed with respect to the articles containing safflower oil. On 8-14-62, such articles were destroyed. On 1-3-63, the action, with respect to the gluten flour, noodles, spaghetti, and macaroni was dismissed, without prejudice, upon the motion of the United States Attorney on the grounds that these articles constituting the *res* of the action were no longer in existence, since they had been inadvertently destroyed thereby rendering the action moot.

29297. Nyal Ny-Vim Vitamin and Mineral Compound. (F.D.C. No. 45903. S. No. 34-372 R.)

QUANTITY: 720 16-oz. btls., at Yonkers, N.Y., in possession of Nyal Co., Inc.

SHIPPED: The article was manufactured by the dealer from raw materials shipped during October 1960, from Newark, N.J.

LABEL IN PART: "Nyal Ny-Vim Vitamin and Mineral Compound Fortified with Vitamin B₁ and Iron * * * Daily Directions * * * Supply * * * Vitamin D 624 U.S.P. Units * * * Nyal Company, Inc., Distributors, New York, N.Y."

RESULTS OF INVESTIGATION: The article was found to contain about 60 percent of the labeled amount of vitamin D.

LIBELED: 5-25-61, S. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent vitamin D had been in part omitted or abstracted therefrom; and 403(a)—the label statement "Daily directions (1 tablespoonful four times a day) Supply * * * Vitamin D 624 U.S.P. Units" was false and misleading.

DISPOSITION: 6-23-61. Default—destruction.

29298. Sea kelp powder and Kelp-Ettes. (F.D.C. No. 46561. S. No. 21-857 R.)

QUANTITY: 70 100-lb. drums of sea kelp powder and 397 100-tablet btls. of Kelp-Ettes, at Hobart, Ind., in possession of Nelson's Natural Foods.

SHIPPED: The bulk sea kelp was shipped on 3-8-61, from San Pedro, Calif.

LABEL IN PART: (Btl.) "500 5 Grain Tablets * * * Nelson's Kelp-Ettes A Pure Sea Food Containing Safe Natural Iodine. Made from Pacific Coast Giant Brown Sea-Kelp (*Macrocystis Pyrifera*) * * * Packed and Distributed by: Nelson's Natural Foods."

ACCOMPANYING LABELING: Leaflet entitled "Have You Checked Your Eating Habits Lately?"; and mimeographed sheets entitled "Alcohol or Poor Diet," "Who Is More Important? A New Born Baby or You? Think It Over!," and "Do You Play the Game of Life to Win?"